

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
MILWAUKEE DIVISION

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In re:

FLOYD DUSTIN BOWIE, III,

Debtors.

Case No. 17-28664-beh

Chapter 13 proceedings

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**ROBERT SETTECASE AND PREMIER MILWAUKEE LLC'S OBJECTION TO  
DEBTOR'S AMENDED CHAPTER 13 PLAN**

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Robert Settecase, individually, and Premier Milwaukee LLC (Collectively, "Settecase"), by their attorney Cade Law Group LLC, OBJECT to the Debtor's Amended Chapter 13 Plan (Dkt # 44). The Amended Plan now includes the Debtor's lawsuit against Settecase, even though that lawsuit was filed on October 11, 2018 in Milwaukee County Circuit Court (*F. Dustin Bowie v. Robert Settecase*, Milwaukee County Case No. 18-CV-08456)(hereinafter, "Lawsuit"). See Dkt. # 43, at p. 7:

34. Other contingent and unliquidated claims of every nature, including counterclaims of the debtor and rights to set off claims

☐ No

☒ Yes. Describe each claim.....

Pending Lawsuit - 2018 CV 008456  
Floyd Dustin Bowie v. Robert A. Settecase  
Debtor has a pending lawsuit against a former business partner. The former business partner file a lawuit against the debtor in 2014. Case was dismissed in 2015. Debtor filed the lawsuit post-petition. The cause of action in the pending lawsuit is for malicious prosecution and abuse of process.

Based on counsel's conversations with the Debtor's attorney in the pending case, Atty William Sulton, believe that the following damages are being sought:

1. emotional distress in the amount of \$50,000.00
2. attorney fees and costs in the amount of \$93,000.00
3. cash and credit investments in the amount of \$223,683.59
4. reimbursement for contractor and loan in the amount of \$11,850.00
5. \$237,317.21 for his time managing Premier Milwaukee, LLC

\$615,850.80

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**Basis for Objection.** There are a number of issues with this amended plan.

First, the debtor never obtained permission from the Court to file the Lawsuit;

Second, in the Lawsuit, the Debtor has identified himself as the Plaintiff rather than the Bankruptcy Estate (i.e. as the Chapter 13 Debtor in Possession), and thus, Debtor lacks standing to pursue the Lawsuit in his individual name. See Declaration of Nathaniel Cade, Jr., at Ex. 1 (Summons and Complaint in the Lawsuit);

Third, all of the allegations contained in the Lawsuit pertains to alleged bad conduct by Robert Settecase against Bowie during their former partnership together in Premier Milwaukee LLC. See Robert Settecase v. F. Dustin Bowie, Milwaukee County Case No. 14-CV-01323 (hereinafter, the “2014 Litigation”). The 2014 Litigation resulted in an Order from Judge David Hansher of the Milwaukee County Circuit Court dismissing some of the same claims of recovery that Debtor now seeks in the Lawsuit. See Cade Declaration, Ex. 2 (Hansher Order, dated December 11, 2014), at p. 3, at ¶ 3:

3. The Receiver is authorized to sell the assets of Premier “As-Is, Where Is,” with no warranties or representations by the Receiver, except that the Receiver will transfer the assets to Settecase, or his assigns, free and clear of Bowie’s liens, claims, and encumbrances of any kind.

Fourth, one of the alleged areas of damages that Debtor has listed is for work he purportedly performed for Premier Milwaukee LLC (but is pursuing against Robert Settecase individually). There is a two-year statute of limitations for wage claims. See Wis. Stat. § 893.44(1). Debtor’s involvement with Premier Milwaukee LLC ended by December 11, 2014 when Judge Hansher approved the sale of the assets of Premier

Milwaukee LLC to Settecase. Moreover, in an affidavit dated April 7, 2014 and filed in the 2014 Litigation, Debtor specifically noted that he had a claim because he “deferred his salary.”:

52. Contrary to Knight’s claim that I have never contributed personal funds to the business (Knight Aff. ¶ 16), I have contributed money, provided personal guarantees, deferred my salary, provided sweat (literally) equity and intellectual capital.

Cade Decl., Ex. 3 (Bowie Affidavit, dated April 7, 2014), at ¶ 52.

Fifth, Counsel for Debtor has not filed a 2016 form or received permission to act on behalf of Debtor or this Estate; and,

Finally, Debtor clearly had knowledge that he had the alleged claims against Settecase before filing the Lawsuit, but purposefully failed to identify those claims when he initially filed his bankruptcy on August 31, 2017 or when he amended his bankruptcy schedules on January 7, 2018. Thus, Debtor cannot be trusted to handle the Lawsuit in any fiduciary capacity as he has demonstrated his intent to personally lay claim to the potential fruits of the Lawsuit rather than attempt to use the proceeds to pay off his creditors. Therefore, the Chapter 13 trustee should have control of the Lawsuit, if the claim is permitted, and the Trustee should be pursuing the claims in the Lawsuit.

WHEREFORE, Settecase requests that the Objection to the Modified Chapter 13 Plan be sustained; that confirmation of the Plan be denied and that the Court provide Settecase with such other and further relief as may be just and equitable under the circumstances.

Dated this: April 24, 2019

**CADE LAW GROUP LLC**

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## **CERTIFICATE OF SERVICE**

The undersigned, an attorney, certifies that: on the 24<sup>th</sup> day of April, 2019, he electronically filed the attached Objection to Chapter 13 Plan as well as the Declaration of Nathaniel Cade, Jr., and that copies of these documents were served by electronic filing to ECF participants and to the following named persons at their proper post office address after their respective names as indicated:

s/Nathaniel Cade, Jr.  
Nathaniel Cade, Jr.

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